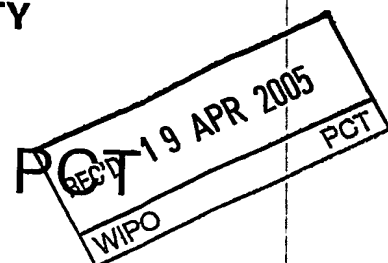


PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220



- WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing 03/14/2005
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/NL2004/000513

International filing date (day/month/year)
15.07.2004

Priority date (day/month/year)
21.07.2003

International Patent Classification (IPC) or both national classification and IPC
B67D1/04, B67D1/12, B67D1/08

Applicant
HEINEKEN TECHNICAL SERVICES B.V.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/NL2004/000513**Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language ~~which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).~~
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional ~~copies is identical to that in the application as filed or does not go beyond the application as filed, as~~ appropriate, were furnished.
4. Additional comments:

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INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/NL2004/000513**Box No. II Priority**1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

- 2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
- 3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
- 4. Additional observations, if necessary:

Box No. IV Lack of unity of invention1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:

- ☐ paid additional fees.
- ☒ paid additional fees under protest.
- ☐ not paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is

- ☐ complied with
- ☒ not complied with for the following reasons:

see separate sheet

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☒ all parts.
- ☐ the parts relating to claims Nos.

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**Box No. V Reasoned statement under Rule 43bis.1(a)(I) with regard to novelty, inventive step or
Industrial applicability; citations and explanations supporting such statement**

1. Statement

| | | |
|-------------------------------|-------------|----------------|
| Novelty (N) | Yes: Claims | 6,7,12,18 |
| | No: Claims | 1-5,8-11,13-17 |
| Inventive step (IS) | Yes: Claims | 6,7,12,18 |
| | No: Claims | 1-5,8-11,13-17 |
| Industrial applicability (IA) | Yes: Claims | 1-18 |
| | No: Claims | |

2. Citations and explanations**see separate sheet**

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Re Item IV.

The separate inventions/groups of inventions are:

1. Claims: 1-6,8-11,13,14,16-18
Container-wherein-the-chamber-is-provided-with-an-activating member.
2. Claim: 7
Container wherein the upper housing part comprises a cylindrical wall with screw thread and a cap comprising complementary screw thread.
3. Claims: 12,15
Container comprising a dispensing line wherein the drink dispensing opening is located at a distance from the centre line of the chamber.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

A container comprising the technical features according to claims 1-5, 8-11, 13, 14, 16, 17 is known from document US-A-4402429.

The special technical features of the first invention are represented by the features of claim 6 and relate to a container wherein the chamber is provided with an activating member and solves the problem of activating the pressure medium chamber with the assembly thereof by pressing the valve against the piston of the pressure regulating element.

The special technical features of the second invention, i.e. the features of claim 7, relate to a container wherein the upper housing part comprises a cylindrical wall with screw thread and a cap comprising complementary screw thread solving the problem of setting the internal pressure in the container by displacement of the cap.

The special technical features of the third invention, i.e. claims 12 and 15, relate to a container with a dispensing line wherein the drink dispensing opening is located at a distance from the centre line of the chamber solving the problem of transporting and storing the container with dispensing line without the risk of damaging the dispensing line which is therefor positioned within the periphery of the container in its inactive state.

The general concept which links the above mentioned inventions, i.e. a container according to claim 1, is disclosed in the prior art and is not new or inventive. Hence, neither the features of claim 1, nor the general concept underlying claim 1 can

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~~...constitute a unifying concept between the above mentioned inventions.~~

The special technical features of the first invention, the second and the third invention are not the same, nor corresponding since they solve totally different problems.

Hence, no technical relationship between the above mentioned (groups of) inventions can be found based on the same or corresponding special technical features (Rule 13.2 PCT). Therefore, the application lacks unity of invention, i.e. the requirement of unity according to Rule 13.1 PCT is not fulfilled.

Re Item V.

The independent claims 13 and 14 define subject-matter by reference to other claims and therewith, rendering the subject-matter of these claims unclear with respect to the features defining the subject-matter per se.

The subject-matter of claim 14, i.e. a pressure regulating element, and claim 13 respectively, is searched as used in a container for a carbonated drink according to any of the claims 1-12, and comprising the following features:

a housing with an end wall, a peripheral wall and a piston defining an upper housing part which is in communication with a reference pressure source, and a lower housing part.

1 The following documents are referred to in this communication:

D1 : US 4 402 429 A (VANDEN DRIESCHE JEAN R) 6 September 1983 (1983-09-06)

D2 : US 3 024 800 A (CRISP LEWIS ERIC) 13 March 1962 (1962-03-13)

D3: PATENT ABSTRACTS OF JAPAN vol. 018, no. 090 (M-1560), 15 February 1994 (1994-02-15) & JP 05 296397 A (NIPPON TANSAN GAS CO LTD), 9 November 1993 (1993-11-09)

D4: US-A-2 134 852 (BOGAN WILLIAM R) 1 November 1938 (1938-11-01)

2 INDEPENDENT CLAIMS 1, 13, 14, 16

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

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- 2.2 Document D1 discloses (the references in parenthesis applying to this document): A container for a carbonated drink provided with a drink chamber (2), a dispensing opening (8), a pressure medium chamber (6) having an outlet closed by a valve (31, 14), and a pressure-regulating element (control element) having a housing (16) and a piston (15) defining an upper (which is in communication with the surroundings) and a lower housing part, and wherein the piston engages the valve (31, 14).
- 2.3 Consequently, also the subject-matter of claims 13, 14 and 16 is not new in the sense of Article 33(2) PCT.
- 2.4 ~~A similar objection could be raised on the basis of the container for a carbonated drink as disclosed in document D2.~~
- 2.5 Document D3 discloses a pressure regulating element (D3, ref.sign 2) and an assembly thereof with a pressure medium chamber (D3, ref.sign B) according to claims 13 and 14.

However, D3 discloses the pressure regulating element forming part of a separate dispensing head (D3, ref.sign 31) to be connected to a container dispensing valve and gas supply valve, i.e. D3 discloses a concept different from the one underlying the present invention being a container form which a drink can be dispensed without the necessity of connecting separate pressure means.

Hence, D3 does not disclose a container which comprises a chamber containing a drink, a pressure medium chamber that is in direct fluid communication with the chamber via a valve, and a pressure regulating element according to claim 1.

3 INDEPENDENT CLAIM 15

- 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 15 is not new in the sense of Article 33(2) PCT.
- 3.2 Document D4 discloses (the references in parenthesis applying to this document): A container (3) for a carbonated drink with a drink dispensing opening closed by a drink dispensing valve (9), which drink dispensing opening has been displaced with respect to the centre line of the container, wherein a dispensing line (26) is

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~~provided with an outflow section located transversely to the centre line of the container and a section that is located in the direction of the centre line of the container and is connected to the outlet such that it can turn, wherein the distance between the centre line and the drink dispensing opening is such that in an inactive position the outflow section is within the periphery of the container and wherein in a dispensing position turned with respect to the inactive position the outflow section protrudes beyond the periphery of the container (page 2, left-hand column lines 62-67, page 2, right-hand column lines 29-35 and figures 1, 2).~~

4 DEPENDENT CLAIMS 2-5, 8-11, 17

~~Dependent claims 2-5, 8-11, 17 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty (Article 33(2) PCT). See documents D1 and D2 and the passages cited in the search report.~~

5 DEPENDENT CLAIMS 6, 7, 12, 18

The combination of the features of dependent claim 6, and the corresponding method claim 18, and of claim 7 and claim 12, is neither known from, nor rendered obvious by, the available prior art.